



APPENDIX.

Statutes and Regulations Involved.

Revenue Act of 1936, c. 690, 49 Stat. 1648:

[The material provisions of the Revenue Act of 1936 are identical, both as to section numbers and as to substance, with the corresponding provisions of the Revenue Act of 1938, hereinafter set forth.]

Revenue Act of 1938, c. 289, 52 Stat. 447:

Sec. 119. INCOME FROM SOURCES WITHIN UNITED STATES.

(a) *Gross Income from Sources in United States.*—The following items of gross income shall be treated as income from sources within the United States:

(1) *Interest.*—Interest from the United States, any Territory, any political subdivision of a Territory, or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including—

* * * * *

(2) *Dividends.*—The amount received as dividends—

(A) from a domestic corporation * * *

(B) from a foreign corporation * * *; but dividends from a foreign corporation shall, for the purposes of section 131 (relating to foreign tax credit), be treated as income from sources without the United States.

(3) *Personal Services*.—Compensation for labor or personal services performed in the United States, * * *

(4) *Rentals and Royalties*.—Rentals or royalties from property located in the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using in the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property; and

(5) *Sale of Real Property*.—Gains, profits, and income from the sale of real property located in the United States.

(6) *Sale of Personal Property*.—* * *

* * * * *

(c) *Gross Income from Sources without United States*.—The following items of gross income shall be treated as income from sources without the United States:

(1) Interest other than that derived from sources within the United States as provided in subsection (a)(1) of this section;

(2) Dividends other than those derived from sources within the United States as provided in subsection (a)(2) of this section;

(3) Compensation for labor or personal services performed without the United States;

(4) Rentals or royalties from property located without the United States or from any interest in such property, including rentals or royalties for the

use of or for the privilege of using without the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like properties; and

(5) Gains, profits, and income from the sale of real property located without the United States.

(d) *Net Income from Sources without United States.*—From the items of gross income specified in subsection (c) of this section there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto, and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be treated in full as net income from sources without the United States.

(e) *Income from Sources Partly within and Partly without United States.*—Items of gross income, expenses, losses and deductions, other than those specified in subsections (a) and (c) of this section, shall be allocated or apportioned to sources within and without the United States, under rules and regulations prescribed by the Commissioner with the approval of the Secretary. * * *

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Sec. 131. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

(a) *Allowance of Credit.*—If the taxpayer signifies in his return his desire to have the benefits of this section, the tax imposed by this title shall be credited with:

(1) *Citizen and Domestic Corporation.*—In the case of a citizen of the United States and of a

domestic corporation, the amount of any income, war-profits, and excess-profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States;

* * * * *

(b) *Limit On Credit.*—The amount of the credit taken under this section shall be subject to each of the following limitations:

(1) The amount of the credit in respect of the tax paid or accrued to any country shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources within such country bears to his entire net income for the same taxable year; and

(2) The total amount of the credit shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources without the United States bears to his entire net income for the same taxable year.

* * * * *

(c) *Proof of Credits.*—The credits provided in this section shall be allowed only if the taxpayer establishes to the satisfaction of the Commissioner (1) the total amount of income derived from sources without the United States, determined as provided in section 119, (2) the amount of income derived from each country, the tax paid or accrued to which is claimed as a credit under this section, such amount to be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary, and (3) all other information necessary for the verification and computation of such credits.

* * * * *

Treasury Regulations 94, relating to the Revenue Act of 1936:

[The material provisions of Regulations 94 are identical, both as to article numbers and as to substance, with the corresponding provisions of Regulations 101, hereinafter set forth.]

Treasury Regulations 101, relating to the Revenue Act of 1938:

Art. 131-2. MEANING OF TERMS.—* * * As to the meaning of "sources," see section 119.

Art. 131-3. CONDITIONS OF ALLOWANCE OF CREDIT.—If the taxpayer signifies in his return his desire to claim credit for income, war-profits, or excess-profits taxes paid other than to the United States, the income tax return must be accompanied by Form 1116 in the case of an individual, and by Form 1118 in the case of a corporation. The form must be carefully filled in with all the information there called for and with the calculations of credits there indicated, and must be duly signed and sworn to or affirmed. * * *

Art. 131-8. LIMITATIONS ON CREDIT FOR FOREIGN TAXES.

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The operation of the limitations on the credit for foreign taxes may be illustrated by the following examples:

* * * * *

Example (3): The net income for the calendar year 1938 and the income and profits taxes paid or accrued to foreign countries and possessions of the

United States in the case of a domestic corporation were as follows:

Country	Net income	Loss	Income and profits taxes (paid or accrued)
United States	\$200,000	—	—
Great Britain	30,000	—	\$7,500
Canada	20,000	—	1,800
Brazil	40,000	—	2,400
Argentine Republic	60,000	—	None
Mexico	—	\$100,000	None
Puerto Rico	10,000	—	1,250
France (dividend)	50,000	—	19,000
France (branch)	20,000	—	3,000

* Withheld.

Entire net income	\$330,000
Total foreign net income	130,000
United States tax before allowance of credit for foreign taxes	48,340

The income and losses from all foreign countries and possessions of the United States, except the dividend from sources within France, were derived from branch operations. Dividends of \$50,000 were received from a French corporation, a majority of the voting stock of which was owned by the domestic corporation. The French corporation paid to France income and profits taxes on income earned by it and in addition a dividend tax for the account of its shareholders on income distributed to them, the latter tax being withheld and paid at the source.

The computation of the credit is as follows:

• • • • •

France

Dividend tax paid at source	\$ 9,000.00
Income and profits taxes paid or accrued on branch operations	3,000.00
Income and profits taxes deemed under section 131(f) to have been paid, * * *	7,324.24
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Total income and profits taxes paid or accrued and deemed to have been paid to France	19,324.24
Limitation under section 131(b)(1)	
$\left\{ \frac{70,000}{330,000} \right\}$ of \$48,340 $\left\{ \right.$	10,253.94
Tentative credit	10,253.94

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Form 1118—U. S. TREASURY DEPARTMENT—INTERNAL REVENUE SERVICE

STATEMENT IN SUPPORT OF CREDIT CLAIMED ON CORPORATION INCOME TAX RETURN FOR TAXES PAID OR ACCRUED TO A FOREIGN COUNTRY OR A POSSESSION OF THE UNITED STATES

To Be Filed by a Domestic Corporation

For Calendar Year 1938

Name of Corporation

Address

Claim for credit is made by the domestic corporation named above, on the attached corporation income tax return, * * * for taxes * * * as follows:

- I. Total income from all sources * * * \$.....
- II. Total United States income tax on Item I \$.....

SCHEDULE A—Taxes Paid or Accrued During the Taxable Year to a Possession of the United States or a Foreign Country

Name of possession or foreign country imposing tax

1. Income⁴ from sources in this possession or foreign country (exclusive of dividends received) * * * (reported in attached corporation income tax return on line) \$.....
2. Dividends received from sources in this possession or foreign country * * * (reported in attached corporation income tax return on line) \$.....
3. Total income⁴ from sources in this possession or foreign country (reported in attached corporation income tax return on line) \$.....
4. Amount of tax paid or accrued with respect to Item 1 * * * \$.....
5. Amount of tax paid or accrued with respect to Item 2 by withholding at the source * * * \$.....
6. Amount of tax deemed to have been paid or accrued with respect to Item 2 * * * \$.....
7. Total of taxes paid or accrued (sum of Items 4, 5, and 6) \$.....
8. Ratio of income⁴ from sources in this possession or foreign country to total income⁴ from all sources (Item 3 divided by Item 1) \$.....
9. Amount of tax which may be claimed as credit under limitation of Section 131 (b) (1) (Item 11, multiplied by Item 8, unless Item 7 is less than such amount in which case Item 7 should be entered here) \$.....

* * * * *

⁴Form 1118 is reissued annually. In the forms issued for 1942 and subsequent years, the term "income" has been amended to read "net income".

AFFIDAVIT

We, the undersigned, president (or vice president, or other principal officer) and
suror (or assistant treasurer, or chief accounting officer) of the corporation for
h this statement is made, being severally duly sworn, each for himself deposes
says that this statement has been examined by him and is to the best of his
ledge and belief a true and complete statement of facts in connection with the
it for taxes claimed on the attached corporation income tax return.

(JURAT)

.....
(President or other principal officer).....
(Treasurer, assistant treasurer, or
chief accounting officer)